

## REMARKS/ARGUMENTS

Within the Office Action, claims 1-6, 9-12, and 17 are rejected under 35 U.S.C. § 102(e), and claims 7, 8, and 13-16 are rejected under 35 U.S.C. § 103(a). The Applicants respectfully request reconsideration in light of the amendments set forth above and the arguments set forth below. By way of the above amendments, claims 9 and 14 have been amended, and claims 18-20 have been added. Accordingly, claims 1-20 are pending.

### Rejections under 35 U.S.C. § 102(e)

Within the Office Action, claims 1-6, 9-12, and 17 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,601,098 to Case et al. The Applicants respectfully traverse these rejections.

#### *Case*

Case is directed to a system for and method of measuring network latency between two computers. Case teaches measuring latency by using functions required in all browsers, as specified in the HyperText Transfer Protocol (HTTP) Specification; in this way, no special software must be added to a client to practice the invention. (See, e.g., Case Abstract; col. 8, lines 12-16 and 47-50).

In that portion of Case cited within the Office Action, Case discloses a client sending to a server a GET request containing a special URL. The server receives the GET request, recognizes the special URL, stores a timestamp T1, and sends to the client a response with the “page temporarily moved” code (redirect status code 302). The response also contains a different special URL, also referred to as a “redirection URL.” In case, the server does not respond with the Web page that was requested. Instead, it responds with a page containing a status code and the special URL. In accordance with the HTTP Specification, the client now sends to the server another GET request, which contains the redirection URL. The server receives the GET request, determines a new timestamp T2, and responds with the data contained at the redirection URL. The server also determines the network latency by calculating T2 - T1. (Case, col. 7, line 1, to col. 8, line 38 )

*Claims 1-6*

Claim 1 is directed to a method of measuring a performance of a route in an internetwork. The route couples an internetwork server to a terminal on the internetwork. The method comprises at a frequently trafficked portal on the internetwork, detecting a request for a web page from the terminal. The web page is at least partially stored at the frequently trafficked portal; in response to the request for the web page, downloading the web page to the terminal via the internetwork; from the web page, retrieving a Uniform Resource Locator (URL) for a web object referenced in the web page; resolving the URL to the internetwork server; detecting a request for the web object from the terminal at the internetwork server; in response to the request for the web object, sending the web object from the internetwork server to the terminal; and concurrent with sending the web object, measuring a Round Trip Time (RTT) of one or more packets sent between the internetwork server and the terminal.

Case discloses a client and a server, but does not disclose a frequently trafficked portal on an internetwork that “detect[s] a request for a web page from [a] terminal, wherein the web page is at least partially stored at the frequently trafficked portal,” as recited in claims 1 and 17. Case discloses ultimately downloading a requested Web page (Case, Figure 4, elements 450 and 460), but this Web page does not contain “a Uniform Resource Locator (URL) for a web object referenced in the web page,” as recited in claims 1 and 17. Case also does not disclose “resolving the URL to the internetwork server” as recited in claims 1 and 17. Indeed, the address to which the URLs are resolved can be the address of any host. For at least these reasons, the rejection of claim 1 is improper and should be withdrawn.

Claims 2-6 all depend on claim 1. As explained above, claim 1 is allowable over Case. Accordingly, claims 2-6 are all also allowable as depending on an allowable base claim.

*Claims 9-13*

Claim 9 is directed to a method of measuring performance in a network. The method comprises (a) between a first point in the network and a second point in the network, wherein the first point is identified by a first address and the second point is identified by a second address, generating one or more pairs of packets, each of the one or more pairs of packets including (i) a packet sent from the first point to the second point and (ii) a packet received at the first point from the second point, wherein the received packet comprises a response to the sent packet; (b) measuring a plurality of durations between the sent packets and the received packets for the one

or more pairs; and (c) calculating, at least from the plurality of durations, parameters of at least part of the network, wherein the parameters comprise per-group delay, jitter, and loss.

Within the Office Action, the Abstract, Figure 4, and column 9, second paragraph, of Case are all cited to show “calculating, at least from the plurality of durations, parameters of at least part of the network, wherein the parameters comprise per-group delay, jitter, and loss.” In these cited sections, Case shows no such thing.

In the Abstract, Case merely describes what latency information is and that it can be used to make policy decisions. In Figure 4, Case shows how time stamps can be stored and used to calculate network latency. In column 9, second paragraph, Case merely explains that a time stamp (T2) does not have to be used to immediately calculate network latency, but can be stored and used to calculate network latency at a later time, using a different process. Nowhere does Case describe calculating parameters that comprise per-group delay, jitter, and loss,” as recited in claim 9. For at least this reason, the rejection of claim 9 is improper and should be withdrawn.

Claims 10-13 all depend on claim 9. As explained above, claim 9 is allowable over Case. Accordingly, claims 10-13 are all also allowable as depending on an allowable base claim.

#### *Claim 17*

Claim 17 is directed to a method of measuring a performance of a route in an internetwork. The route couples an internetwork server to a terminal on the internetwork. The method comprises at a frequently trafficked portal on the internetwork, detecting a request for a web page from the terminal, wherein the web page is at least partially stored at the frequently trafficked portal; from the web page, retrieving a Uniform Resource Locator (URL) for a web object referenced in the web page; resolving the URL to the internetwork server; detecting a request for the web object from the terminal at the internetwork server; and in response to the request for the web object, measuring a Round Trip Time (RTT) of one or more packets sent between the internetwork server and the terminal.

As described above in relation to claim 1, Case does not disclose a frequently trafficked portal on an internetwork that “detect[s] a request for a web page from [a] terminal, wherein the web page is at least partially stored at the frequently trafficked portal,” as recited in claim 17. Case discloses ultimately downloading a requested Web page (Case, Figure 4, elements 450 and 460), but this Web page does not contain “a Uniform Resource Locator (URL) for a web object referenced in the web page,” as recited in claim 17. Case also does not disclose “resolving the

URL to the internetwork server" as recited in claim 17. Indeed, Case does not disclose how its URLs are resolved. For at least these reasons, the rejection of claim 17 is improper and should be withdrawn.

Rejections under 35 U.S.C. § 103(a)

*Claims 7 and 8*

Within the Office Action, claims 7 and 8 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Case in view of U.S. patent No. 6,748,426 to Shaffer et al. The Applicants respectfully traverse these rejections.

Case is again relied on as disclosing all the elements of claim 1. Shaffer is relied on as disclosing a Web object that is visually imperceptible. As described above, claim 1 is allowable over Case. Accordingly, claims 7 and 8, which both depend on claim 1, are allowable as depending on an allowable base claim.

*Claims 13-16*

Within the Office Action, claims 13-16 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Case in view of U.S. Patent No. 6,026,441 to Ronen. The Applicants respectfully traverse these rejections.

Within the Office Action, it is stated: "Regarding claim 13 [it] is substantially the same as claim 1 and is thus rejected for reasons similar to those in rejecting claim 1." Within the Office Action it is admitted that Case does not teach a Domain Name System (DNS) server on the internetwork, but it is then argued that Ronen does. The Applicants assume that claim 14, not 13, was intended to be rejected in view of Case and Ronen, since it is claim 14, not 13, that recites a DNS server. Claims 13 and 14 are now discussed separately.

First, claim 13 depends on claim 1 which, as described above, is allowable. Accordingly, claim 13 is also allowable as depending on an allowable base claim.

Claim 14 recites, in part, "a web page for downloading upon request and at least partially stored on the frequently trafficked web portal, the at least partially stored web page including a Uniform Resource Locator (URL) for a web object, such that the web object is not stored on the frequently trafficked web portal." As explained above, Case does not disclose a Web page that can be requested and that includes a URL for a web object. Instead, Case discloses a Web page that contains a status code (this page is not requested) and a redirection URL to another Web

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page. Because Case, Ronen, and their combination do not teach, suggest, or provide any motivation for to include each element recited in claim 14, claim 14 is allowable over Case, Ronen, and their combination.

Claims 15 and 16 both depend on claim 14. As explained above, claim 14 is allowable over Case, Ronen, and their combination. Accordingly, claims 15 and 16 are also both allowable as depending on an allowable base claim.

*The new claims find support in the application as filed.*

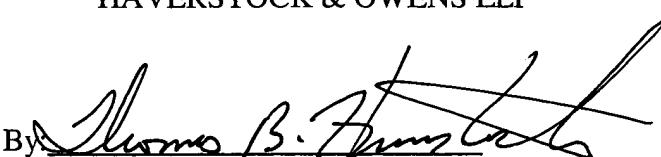
The new claims 18-20 find support in the Specification at, for example, page 10, line 14, to page 11, line 5. The new claims 18-20 all depend on claim 9. As explained above, claim 9 is allowable. Accordingly, claims 18-20 are all also allowable as depending on an allowable base claim.

### CONCLUSION

No new matter has been added by the above amendments. For the reasons given above, the Applicants respectfully submit that claims 1-20 are in condition for allowance, and allowance at an early date would be appreciated. If the Examiner has any questions or comments, the Examiner is encouraged to call the undersigned at (408) 530-9700 so that any outstanding issues can be quickly and efficiently resolved.

Respectfully submitted,  
HAVERSTOCK & OWENS LLP

Dated: 2-8-05

By   
Thomas B. Haverstock  
Reg. No.: 32,571

Attorneys for Applicants

#### CERTIFICATE OF MAILING (37 CFR§ 1.8(a))

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